

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 2060 – HB 2210

March 6, 2018

SUMMARY OF ORIGINAL BILL: For transactions that are sales for resale, requires a business primarily engaged in retail sales to collect at the point of sale the state and local sales and use tax levied upon such goods or service. Authorizes the purchaser of goods or services for a subsequent resale to file with the purchaser's monthly return a claim for a refund of state and local sales and use tax paid on such goods or services.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$5,600/One-Time
\$144,000/Recurring

SUMMARY OF AMENDMENT (014333): Adds language to the bill which exempts from the requirements of the bill sales of tangible personal property for which ownership is evidenced by a certificate of title.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Tenn. Code Ann. § 67-6-102(75) defines "resale" as a subsequent, bona fide sale of the property, services, or taxable item by the purchaser and defines a "sale for resale" as the sale of the property, services, or taxable item intended for subsequent resale by the purchaser; however, sales for resale must be in strict compliance with rules and regulations promulgated by the Commissioner of the Department of Revenue (DOR).
- Tangible personal property, taxable services, amusements, and digital products specifically intended for resale are currently not subject to state and local sales and use tax.
- Whenever a retailer registers for a Tennessee sales and use tax account, the DOR automatically issues a sales and use tax certificate of resale.
- Currently, if a purchaser, who is also a retailer, purchases something with the intent of reselling that item and presents a valid resale certificate, no state and local sales and use

tax is owed on such purchase. Purchasers must retain a copy of the certificate in their records.

- The legislation will require purchasers of goods or services for resale to pay the state and local sales and use tax, and then file with the purchaser's monthly return a claim for a refund of such state and local sales and use tax.
- Amendment 014333 exempts from the requirements of the legislation, any sales of tangible personal property for which ownership is evidenced by a certificate of title.
- This exemption is assumed to primarily apply to vehicles purchased by bona fide resellers, also known as motor vehicle dealers.
- The legislation will result in an unknown increase in state and local sales and use tax revenue due to retailers being required to pay such taxes under the provisions of this legislation; however, any increases in tax revenue will be subsequently offset by corresponding and equal decreases in tax revenue as a result of refund claims made against retailers' monthly returns. Any net impact on state or local revenue is estimated to be not significant.
- The legislation will result in an increased workload to the DOR, to audit monthly tax returns from retailers to ensure that any claim for refund of state and local sales and use tax paid on a resale item is valid.
- According to the DOR, passage of this legislation will require two additional Tax Auditor 3 positions.
- A recurring increase in state expenditures of \$143,960 [2 x (salary \$55,000 + benefits \$12,172 + FICA \$4,208 + supplies \$600), and a one-time increase in state expenditures of \$5,600 [2 x (computer-related costs \$1,200 + office furniture \$1,600)].

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee" followed by the letters "RNC" in a smaller, less distinct script.

Krista M. Lee, Executive Director

/jdb